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Kyle Everett

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re

BENJA INCORPORATED

Debtor.

Case No. 20-30819 DM

Chapter 11

**MOTION FOR ORDER
SHORTENING TIME FOR
HEARING ON THE TRUSTEE'S
MOTION TO CONVERT CASE TO
CHAPTER 7**

Kyle Everett (the "Trustee") files this Motion for an Order Shortening Time for Notice and Hearing (the "Motion for OST") on his Motion to Convert Case to Chapter 7 (the "Underlying Motion") pursuant to Bankruptcy Code Section 1112(b) and Bankruptcy Rule 2002. Everett seeks an order setting the Underlying Motion for hearing on January 29, 2021, at 10:30 a.m., before the Hon. Dennis Montali, and directing service. This Motion for OST is supported by the concurrently-filed supporting declaration of Stephen D. Finestone.

I. REQUEST FOR ORDER SHORTENING TIME

In support of this Motion for OST, the Trustee states as follows:

1. The Trustee seeks to a conversion of this case to a Chapter 7 proceeding and does not wish to wait the normal notice period for the hearing to be held. The Trustee does not anticipate any opposition to the Underlying Motion. In fact, the active creditors in the case support conversion.

2. The Trustee had initially intended to seek conversion via a stipulation, but upon consultation with the Office of the United States Trustee, the Trustee decided to seek conversion by noticed motion.
3. There have been no previous time modifications related to the subject of this request.
4. This request, if granted, will have little to no effect on the schedule for the case or proceeding, and it does not affect any other matters pending before this Court.
5. Counsel for the Trustee has consulted with the Office of the U.S. Trustee and the active parties in the case. They have indicated they do not oppose the request to shorten time. The Trustee initially intended to seek to shorten time such that the hearing could take place on January 22, 2021, but given the Court holiday on January 18, 2021, the Trustee decided to seek to shorten time to January 29, 2021 instead.

II. NOTICE REQUIREMENTS

Pursuant to Bankruptcy Rule 2002(a)(4), notice of a motion to convert require at least 21 days' notice to all parties. Pursuant to Bankruptcy Rule 9006(c)(1) and Local Rule 9006-1(c), the Court may reduce the time otherwise provided by the rule. The Trustee respectfully requests that the Court permit limited notice of the hearing on the Underlying Motion upon any creditors identified by the Debtor in the list of creditors with the 20 largest unsecured claims, the Debtor, the U.S. Trustee and any parties who have filed claims or requests for special notice or otherwise appeared in the case.

III. CONCLUSION

For the reasons stated above, the Trustee requests that the Court enter an order that:

1. Sets a hearing on the Motion to Convert on January 29, 2021, at 10:30 a.m.;
2. Permits notice of the hearing on those identified in the 20 largest unsecured creditors list, on the Debtor, the U.S. Trustee and any parties who have filed claims or requests for special notice or otherwise appeared in the case.
3. That notice of the hearing be sent by U.S. Mail by January 20, 2021 with any opposition to the Underlying Motion to be provided prior to or at the hearing.

1 Dated: January 15, 2021

FINESTONE HAYES LLP

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3 /s/ Stephen D. Finestone
4 Stephen D. Finestone
5 Attorneys for Kyle Everett
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